

**62A-11-101. Legislative intent -- Liberal construction.**

It is the intent of the Legislature that the integrity of the public assistance programs of this state be maintained and that the taxpayers support only those persons in need and only as a resource of last resort. To this end, this part should be liberally construed.

Enacted by Chapter 1, 1988 General Session

**62A-11-102. Office of Recovery Services -- Creation.**

(1) There is created within the department the Office of Recovery Services which has the powers and duties provided by law.

(2) The office is under the administrative and general supervision of the executive director.

Enacted by Chapter 1, 1988 General Session

**62A-11-103. Definitions.**

As used in this part:

(1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(2) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(3) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

(4) "Director" means the director of the Office of Recovery Services.

(5) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction of all amounts required by law to be withheld.

(6) "Financial institution" means:

(a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(c);

(b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);

(c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786(r);

(d) a broker-dealer as defined in Section 61-1-13; or

(e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

(7) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12 U.S.C. Sec. 3401.

(8) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, or contract payment, or denominated as advances on future wages, salary,

commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay. "Income" includes:

(a) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(b) interest and dividends;

(c) periodic payments made under pension or retirement programs or insurance policies of any type;

(d) unemployment compensation benefits;

(e) workers' compensation benefits; and

(f) disability benefits.

(9) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(10) "New hire registry" means the centralized new hire registry created in Section 35A-7-103.

(11) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or public assistance.

(12) "Obligor" means a person, firm, corporation, or the estate of a decedent owing money to this state, to an individual, to another state, or other comparable jurisdiction in whose behalf this state is acting.

(13) "Office" means the Office of Recovery Services.

(14) "Provider" means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.

(15) "Public assistance" or "assistance" means:

(a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments under Part E of Title IV of the Social Security Act, 42 U.S.C. Sec. 670, et seq.;

(d) SNAP benefits as defined in Section 35A-1-102; or

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(16) "State case registry" means the central, automated record system maintained by the office and the central, automated district court record system maintained by the Administrative Office of the Courts, that contains records which use standardized data elements, such as names, Social Security numbers and other uniform identification numbers, dates of birth, and case identification numbers, with respect to:

(a) each case in which services are being provided by the office under the state IV-D child support services plan; and

(b) each support order established or modified in the state on or after October 1, 1998.

Amended by Chapter 41, 2012 General Session

**62A-11-104. Duties of office.**

- (1) The office has the following duties:
  - (a) except as provided in Subsection (2), to provide child support services if:
    - (i) the office has received an application for child support services;
    - (ii) the state has provided public assistance; or
    - (iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;
  - (b) to carry out the obligations of the department contained in this chapter and in Title 78B, Chapter 12, Utah Child Support Act; Chapter 14, Uniform Interstate Family Support Act; and Chapter 15, Utah Uniform Parentage Act, for the purpose of collecting child support;
  - (c) to collect money due the department which could act to offset expenditures by the state;
  - (d) to cooperate with the federal government in programs designed to recover health and social service funds;
  - (e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;
  - (f) to implement income withholding for collection of child support in accordance with Part 4, Income Withholding in IV-D Cases, of this chapter;
  - (g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section 62A-11-304.5;
  - (h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:
    - (i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;
    - (ii) any amount described in Subsection (1)(h)(i) that has been collected;
    - (iii) the distribution of collected amounts;
    - (iv) the birth date of any child for whom the order requires the provision of support; and
  - (v) the amount of any lien imposed with respect to the order pursuant to this part;
  - (i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;
  - (j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section 62A-11-307.2;
  - (k) to finance any costs incurred from collections, fees, General Fund appropriation, contracts, and federal financial participation; and
  - (l) to provide notice to a noncustodial parent in accordance with Section

62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

(a) in the custody of the Division of Child and Family Services; and

(b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:

(i) the greater than seven consecutive day period starts during one month and ends in the next month; and

(ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

Amended by Chapter 369, 2012 General Session

**62A-11-104.1. Disclosure of information regarding employees.**

(1) Upon request by the office, for purposes of an official investigation made in connection with its duties under Section 62A-11-104, the following disclosures shall be made to the office:

(a) a public or private employer shall disclose an employee's name, address, date of birth, income, social security number, and health insurance information pertaining to the employee and the employee's dependents;

(b) an insurance organization subject to Title 31A, Insurance Code, or the insurance administrators of a self-insured employer shall disclose health insurance information pertaining to an insured or an insured's dependents, if known; and

(c) a financial institution subject to Title 7, Financial Institutions, shall disclose financial record information of a customer named in the request.

(2) The office shall specify by rule the type of health insurance and financial record information required to be disclosed under this section.

(3) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) An employer, financial institution, or insurance organization, or its agent or employee, is not civilly or criminally liable for providing information to the office in accordance with this section, whether the information is provided pursuant to oral or written request.

Amended by Chapter 382, 2008 General Session

**62A-11-105. Adjudicative proceedings.**

The office and the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

**62A-11-106. Office may file as real party in interest -- Written consent to payment agreements -- Money judgment in favor of obligee considered to be in favor of office to extent of right to recover.**

(1) The office may file judicial proceedings as a real party in interest to establish, modify, and enforce a support order in the name of the state, any department of the state, the office, or an obligee.

(2) No agreement between an obligee and an obligor as to past, present, or future obligations, reduces or terminates the right of the office to recover from that obligor on behalf of the department for public assistance provided, unless the department has consented to the agreement in writing.

(3) Any court order that includes a money judgment for support to be paid to an obligee by any person is considered to be in favor of the office to the extent of the amount of the office's right to recover public assistance from the judgment debtor.

Amended by Chapter 140, 1994 General Session

**62A-11-107. Director -- Powers of office -- Representation by county attorney or attorney general -- Receipt of grants -- Rulemaking and enforcement.**

(1) The director of the office shall be appointed by the executive director.

(2) The office has power to administer oaths, certify to official acts, issue subpoenas, and to compel witnesses and the production of books, accounts, documents, and evidence.

(3) The office has the power to seek administrative and judicial orders to require an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated.

(4) The office has the power to enter into reciprocal child support enforcement agreements with foreign countries consistent with federal law and cooperative enforcement agreements with Indian Tribes.

(5) The office has the power to pursue through court action the withholding, suspension, and revocation of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or orders relating to paternity or child support proceedings pursuant to Section 78B-6-315.

(6) It is the duty of the attorney general or the county attorney of any county in which a cause of action can be filed, to represent the office. Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties arising under this chapter.

(7) The office, with department approval, is authorized to receive any grants or stipends from the federal government or other public or private source designed to aid the efficient and effective operation of the recovery program.

(8) The office may adopt, amend, and enforce rules as may be necessary to

carry out the provisions of this chapter.

Amended by Chapter 3, 2008 General Session

**62A-11-108. Office designated as criminal justice agency -- Access by IV-D agencies to motor vehicle and law enforcement data through the office.**

(1) The office is designated as a criminal justice agency for the purpose of requesting and obtaining access to criminal justice information, subject to appropriate federal, state, and local agency restrictions governing the dissemination of that information.

(2) All federal and state agencies conducting activities under Title IV-D of the Social Security Act shall have access through the office to any system used by this state to locate an individual for purposes relating to motor vehicles or law enforcement.

Amended by Chapter 232, 1997 General Session

**62A-11-111. Lien provisions.**

Provisions for collection of any lien placed as a condition of eligibility for any federally or state-funded public assistance program are as follows:

(1) Any assistance granted after July 1, 1953 to the spouse of an old-age recipient who was not eligible for old-age assistance but who participated in the assistance granted to the family is recoverable in the same manner as old-age assistance granted to the old-age recipient.

(2) At the time of the settlement of a lien given as a condition of eligibility for the old-age assistance program, there shall be allowed a cash exemption of \$1,000, less any additional money invested by the department in the home of an old-age recipient or recipients of other assistance programs either as payment of taxes, home and lot improvements, or to protect the interest of the state in the property for necessary improvements to make the home habitable, to be deducted from the market or appraised value of the real property. When it is necessary to sell property or to settle an estate the department may grant reasonable costs of sale and settlement of an estate as follows:

(a) When the total cost of probate, including the sale of property when it is sold, and the cost of burial and last illness do not exceed \$1,000, the exemption of \$1,000 shall be the total exemption, which shall be the only amount deductible from the market or appraised value of the property.

(b) Subject to Subsection (2)(c), when \$1,000 is not sufficient to pay for the costs of probate, the following expenditures are authorized:

- (i) cost of funeral expenses not exceeding \$1,500;
- (ii) costs of terminal illness, provided the medical expenses have not been paid from any state or federally-funded assistance program;
- (iii) realty fees, if any;
- (iv) costs of revenue stamps, if any;
- (v) costs of abstract or title insurance, whichever is the least costly;
- (vi) attorney fees not exceeding the recommended fee established by the Utah

State Bar;

(vii) administrator's fee not to exceed \$150;

(viii) court costs; and

(ix) delinquent taxes, if any.

(c) An attorney, who sells the property in an estate that the attorney is probating, is entitled to the lesser of:

(i) a real estate fee; or

(ii) an attorney fee.

(3) The amounts listed in Subsection (2)(b) are to be considered only when the total costs of probate exceed \$1,000, and those amounts are to be deducted from the market or appraised value of the property in lieu of the exemption of \$1,000 and are not in addition to the \$1,000 exemption.

(4) When both husband and wife are recipients and one or both of them own an interest in real property, the lien attaches to the interests of both for the reimbursement of assistance received by either or both spouses. Only one exemption, as provided in this section, is allowed.

(5) When a lien was executed by one party on property that is owned in joint tenancy with full rights of survivorship, the execution of the lien severs the joint tenancy and a tenancy in common results, insofar as a department lien is affected, unless the recipients are husband and wife. When recipients are husband and wife who own property in joint tenancy with full rights of survivorship, the execution of a lien does not sever the joint tenancy, insofar as a department lien might be affected, and settlement of the lien shall be in accordance with the provisions of Subsection (4).

(6) The amount of the lien given for old-age assistance shall be the total amount of assistance granted up to the market or appraised value of the real or personal property, less the amount of the legal maximum property limitations from the execution of the lien until settlement thereof. There shall be no exemption of any kind or nature allowed against real or personal property liens granted for old-age assistance except assistance in the form of medical care, and nursing home care, other types of congregate care, and similar plans for persons with a physical or mental disability.

(7) When it is necessary to sell property or to settle an estate, the department is authorized to approve payment of the reasonable costs of sale and settlement of an estate on which a lien has been given for old-age assistance.

(8) The amount of reimbursement of all liens held by the department shall be determined on the basis of the formulas described in this section, when they become due and payable.

(9) All lien agreements shall be recorded with the county recorder of the county in which the real property is located, and that recording has the same effect as a judgment lien on any real property in which the recipient has any title or interest. All such real property including but not limited to, joint tenancy interests, shall, from the time a lien agreement is recorded, be and become charged with a lien for all assistance received by the recipient or his spouse as provided in this section. That lien has priority over all unrecorded encumbrances. No fees or costs shall be paid for such recording.

(10) Liens shall become due and payable, and the department shall seek

collection of each lien now held:

(a) when the property to which the lien attaches is transferred to a third party prior to the recipient's death, provided, that if other property is purchased by the recipient to be used by the recipient as a home, the department may transfer the amount of the lien from the property sold to the property purchased;

(b) upon the death of the recipient and the recipient's spouse, if any. When the heirs or devisees of the property are also recipients of public assistance, or when other hardship circumstances exist, the department may postpone settlement of the lien if that would be in the best interest of the recipient and the state;

(c) when a recipient voluntarily offers to settle the lien; or

(d) when property subject to a lien is no longer used by a recipient and appears to be abandoned.

(11) When a lien becomes due and payable, a certificate in a form approved by the department certifying to the amount of assistance provided to the recipient and the amount of the lien, shall be mailed to the recipient, the recipient's heirs, or administrators of the estate, and the same shall be allowed, approved, filed, and paid as a preferred claim, as provided in Subsection 75-3-805(1)(e) in the administration of the decedent's estate. The amount so certified constitutes the entire claim, as of the date of the certificate, against the real or personal property of the recipient or the recipient's spouse. Any person dealing with the recipient, heirs, or administrators, may rely upon that certificate as evidence of the amount of the existing lien against that real or personal property. That amount, however, shall increase by accruing interest until time of final settlement, at the rate of 6% per annum, commencing six months after the lien becomes due and payable, or at the termination of probate proceedings, whichever occurs later.

(12) If heirs are unable to make a lump-sum settlement of the lien at the time it becomes due and payable, the department may permit settlement based upon periodic repayments in a manner prescribed by the department, with interest as provided in Subsection (11).

(13) All sums so recovered, except those credited to the federal government, shall be retained by the department.

(14) The department is empowered to accept voluntary conveyance of real or personal property in satisfaction of its interest therein. All property acquired by the department under the provisions of this section may be disposed of by public or private sale under rules prescribed by the department. The department is authorized to execute and deliver any document necessary to convey title to all property that comes into its possession, as though the department constituted a corporate entity.

(15) Any real property acquired by the department, either by foreclosure or voluntary conveyance, is tax exempt, so long as it is so held.

Amended by Chapter 366, 2011 General Session

**62A-11-301. Title.**

This part is known as the "Child Support Services Act."



Amended by Chapter 161, 2000 General Session

**62A-11-302. Common-law and statutory remedies augmented by act -- Public policy.**

The state of Utah, exercising its police and sovereign power, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of minor dependent children shall be augmented by this part, which is directed to the real and personal property resources of the responsible parents. In order to render resources more immediately available to meet the needs of minor children, it is the legislative intent that the remedies provided in this part are in addition to, and not in lieu of, existing law. It is declared to be the public policy of this state that this part be liberally construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.

Enacted by Chapter 1, 1988 General Session

**62A-11-303. Definitions.**

As used in this part:

- (1) "Adjudicative proceeding" means an action or proceeding of the office conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (2) "Administrative order" means an order that has been issued by the office, the department, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.
- (3) "Assistance" or "public assistance" is defined in Section 62A-11-103.
- (4) "Business day" means a day on which state offices are open for regular business.
- (5) "Child" means:
  - (a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;
  - (b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or
  - (c) a son or daughter of any age who is incapacitated from earning a living and is without sufficient means.
- (6) "Child support" is defined in Section 62A-11-401.
- (7) "Child support guidelines" or "guidelines" is defined in Section 78B-12-102.
- (8) "Child support order" or "support order" is defined in Section 62A-11-401.
- (9) "Child support services" or "IV-D child support services" is defined in Section 62A-11-103.
- (10) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction of this state, another state, Native American tribe, the federal government, or any other comparable jurisdiction.
- (11) "Director" means the director of the Office of Recovery Services.

(12) "Disposable earnings" is defined in Section 62A-11-103.

(13) "High-volume automated administrative enforcement" in interstate cases means, on the request of another state, the identification by the office, through automatic data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in the requesting state, and the seizure of the assets by the office, through levy or other appropriate processes.

(14) "Income" is defined in Section 62A-11-103.

(15) "Notice of agency action" means the notice required to commence an adjudicative proceeding in accordance with Section 63G-4-201.

(16) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of child support or public assistance.

(17) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in whose behalf this state is acting.

(18) "Office" is defined in Section 62A-11-103.

(19) "Parent" means a natural parent or an adoptive parent of a dependent child.

(20) "Person" includes an individual, firm, corporation, association, political subdivision, department, or office.

(21) "Presiding officer" means a presiding officer described in Section 63G-4-103.

(22) "Support" includes past-due, present, and future obligations established by:

(a) a tribunal or imposed by law for the financial support, maintenance, medical, or dental care of a dependent child; and

(b) a tribunal for the financial support of a spouse or former spouse with whom the obligor's dependent child resides if the obligor also owes a child support obligation that is being enforced by the state.

(23) "Support debt," "past-due support," or "arrearages" means the debt created by nonpayment of support.

(24) "Tribunal" means the district court, the Department of Human Services, the Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

#### **62A-11-303.5. Application for child support services.**

Any person applying to the office for child support services shall be required to attest to the truthfulness of the information contained in the application. The attestation shall indicate that the person believes that all information provided is true and correct to the best of their knowledge and that knowingly providing false or misleading information is a violation of Section 76-8-504 and may result in prosecution, case closure for failure to cooperate, or both.

Enacted by Chapter 60, 2002 General Session

**62A-11-303.7. Annual fee for child support services to a custodial parent who has not received TANF assistance.**

(1) The office shall impose an annual fee of \$25 in each case in which services are provided by the office if:

(a) the custodial parent who received the services has never received assistance under a state program funded under Title IV, Part A of the Social Security Act; and

(b) the office has collected at least \$500 of child support in the case.

(2) The fee described in Subsection (1) shall be:

(a) subject to Subsection (3), retained by the office from child support collected on behalf of the custodial parent described in Subsection (1)(a); or

(b) paid by the custodial parent described in Subsection (1)(a).

(3) A fee retained under Subsection (2)(a) may not be retained from the first \$500 of child support collected in the case.

(4) The fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the office for the purpose of collecting child support.

Enacted by Chapter 184, 2007 General Session

**62A-11-304.1. Expedited procedures for establishing paternity or establishing, modifying, or enforcing a support order.**

(1) The office may, without the necessity of initiating an adjudicative proceeding or obtaining an order from any other judicial or administrative tribunal, take the following actions related to the establishment of paternity or the establishment, modification, or enforcement of a support order, and to recognize and enforce the authority of state agencies of other states to take the following actions:

(a) require a child, mother, and alleged father to submit to genetic testing;

(b) subpoena financial or other information needed to establish, modify, or enforce a support order, including:

(i) the name, address, and employer of a person who owes or is owed support that appears on the customer records of public utilities and cable television companies; and

(ii) information held by financial institutions on such things as the assets and liabilities of a person who owes or is owed support;

(c) require a public or private employer to promptly disclose information to the office on the name, address, date of birth, social security number, employment status, compensation, and benefits, including health insurance, of any person employed as an employee or contractor by the employer;

(d) require an insurance organization subject to Title 31A, Insurance Code, or an insurance administrator of a self-insured employer to promptly disclose to the office health insurance information pertaining to an insured or an insured's dependents, if

known;

(e) obtain access to information in the records and automated databases of other state and local government agencies, including:

- (i) marriage, birth, and divorce records;
- (ii) state and local tax and revenue records providing information on such things as residential and mailing addresses, employers, income, and assets;
- (iii) real and titled personal property records;
- (iv) records concerning occupational and professional licenses and the ownership and control of corporations, partnerships, and other business entities;
- (v) employment security records;
- (vi) records of agencies administering public assistance programs;
- (vii) motor vehicle department records; and
- (viii) corrections records;

(f) upon providing notice to the obligor and obligee, direct an obligor or other payor to change the payee to the office if support has been assigned to the office under Section 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42 U.S.C. Sec. 654B;

(g) order income withholding in accordance with Part 4, Income Withholding in IV-D Cases;

(h) secure assets to satisfy past-due support by:

- (i) intercepting or seizing periodic or lump-sum payments from:
  - (A) a state or local government agency, including unemployment compensation, workers' compensation, and other benefits; and
  - (B) judgments, settlements, and lotteries;
- (ii) attaching and seizing assets of an obligor held in financial institutions;
- (iii) attaching public and private retirement funds, if the obligor presently:
  - (A) receives periodic payments; or
  - (B) has the authority to withdraw some or all of the funds; and
- (iv) imposing liens against real and personal property in accordance with this section and Section 62A-11-312.5; and

(i) increase monthly payments in accordance with Section 62A-11-320.

(2) (a) When taking action under Subsection (1), the office shall send notice under this Subsection (2)(a) to the person or entity who is required to comply with the action if not a party to a case receiving IV-D services.

(b) The notice described in Subsection (2)(a) shall include:

- (i) the authority of the office to take the action;
- (ii) the response required by the recipient;
- (iii) the opportunity to provide clarifying information to the office under Subsection (2)(c);
- (iv) the name and telephone number of a person in the office who can respond to inquiries; and

(v) the protection from criminal and civil liability extended under Subsection (7).

(c) The recipient of a notice sent under this Subsection (2) shall promptly comply with the terms of the notice and may, if the recipient believes the office's request is in error, send clarifying information to the office setting forth the basis for the

recipient's belief.

(3) The office shall in any case in which it requires genetic testing under Subsection (1)(a):

- (a) consider clarifying information if submitted by the obligee and alleged father;
- (b) proceed with testing as the office considers appropriate;
- (c) pay the cost of the tests, subject to recoupment from the alleged father if paternity is established;

- (d) order a second test if the original test result is challenged, and the challenger pays the cost of the second test in advance; and

- (e) require that the genetic test is:

- (i) of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of Health and Human Services; and
  - (ii) performed by a laboratory approved by such an accreditation body.

(4) The office may impose a penalty against an entity for failing to provide information requested in a subpoena issued under Subsection (1) as follows:

- (a) \$25 for each failure to provide requested information; or
- (b) \$500 if the failure to provide requested information is the result of a conspiracy between the entity and the obligor to not supply the requested information or to supply false or incomplete information.

(5) (a) Unless a court or administrative agency has reduced past-due support to a sum certain judgment, the office shall provide concurrent notice to an obligor in accordance with Section 62A-11-304.4 of:

- (i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) if Subsection (5)(b)(iii) does not apply; and

- (ii) the opportunity of the obligor to contest the action and the amount claimed to be past-due by filing a written request for an adjudicative proceeding with the office within 15 days of notice being sent.

- (b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b), a person in possession of personal property of the obligor shall:

- (A) secure the property from unauthorized transfer or disposition as required by Section 62A-11-313; and

- (B) surrender the property to the office after 21 days of receiving the notice unless the office has notified the person to release all or part of the property to the obligor.

- (ii) Unless released by the office, a notice of levy upon personal property shall be:

- (A) valid for 60 days; and

- (B) effective against any additional property which the obligor may deposit or transfer into the possession of the person up to the amount of the levy.

- (iii) If the property upon which the office imposes a levy is insufficient to satisfy the specified amount of past-due support and the obligor fails to contest that amount under Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) against additional property of the obligor until the amount specified and the reasonable costs of collection are fully paid.

(c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds resulting from action requiring notice under Subsection (5)(a)(i) until:

- (i) 21 days after notice was sent to the obligor; and
- (ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has exhausted the obligor's administrative remedies and, if appealed to a district court, the district court has rendered a final decision.

(d) Before intercepting or seizing any periodic or lump-sum payment under Subsection (1)(h)(i)(A), the office shall:

- (i) comply with Subsection 59-10-529(4)(a); and
- (ii) include in the notice required by Subsection 59-10-529(4)(a) reference to Subsection (1)(h)(i)(A).

(e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal property of the obligor shall be in accordance with Section 62A-11-312.5.

(6) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(7) No employer, financial institution, public utility, cable company, insurance organization, its agent or employee, or related entity may be civilly or criminally liable for providing information to the office or taking any other action requested by the office pursuant to this section.

(8) The actions the office may take under Subsection (1) are in addition to the actions the office may take pursuant to Part 4, Income Withholding in IV-D Cases.

Amended by Chapter 212, 2009 General Session

**62A-11-304.2. Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.**

(1) Through an adjudicative proceeding the office may issue or modify an administrative order that:

- (a) determines paternity;
- (b) determines whether an obligor owes support;
- (c) determines temporary orders of child support upon clear and convincing evidence of paternity in the form of genetic test results or other evidence;
- (d) requires an obligor to pay a specific or determinable amount of present and future support;
- (e) determines the amount of past-due support;
- (f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;
- (g) imposes a penalty authorized under this chapter;
- (h) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and
- (i) renews an administrative judgment.

(2) (a) An abstract of a final administrative order issued under this section or a

notice of judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.

(b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

(i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and

(ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.

(3) If a judicial order has been issued, the office may not issue an order under Subsection (1) that is not based on the judicial order, except:

(a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section 78A-6-1106; or

(b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection 78B-14-207(2)(c) are met.

(4) The office may proceed under this section in the name of this state, another state under Section 62A-11-305, any department of this state, the office, or the obligee.

(5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.

(6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.

(7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:

(a) the obligor's current address;

(b) the name and address of current payors of income;

(c) availability of or access to health insurance coverage; and

(d) applicable health insurance policy information.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

**62A-11-304.4. Filing of location information -- Service of process.**

(1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:

(i) with the court or administrative agency that conducted the proceeding; and

(ii) after October 1, 1998, with the state case registry.

(b) The identifying information required under Subsection (1)(a) shall include the person's Social Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the United States Secretary of Health and Human Services.

(c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be

satisfied as to a party upon:

(i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and

(ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).

(2) (a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:

(i) with notice of all proceedings in which support obligations might be established or modified; and

(ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.

(b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section 78B-14-614.

(3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.

(4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or disclosure of information relating to a proceeding to:

(a) establish paternity; or

(b) establish or enforce support.

(5) (a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:

(i) the party seeking the information produces a copy of the parent-time order signed by the court;

(ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;

(iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;

(iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being sought, a criminal order, an administrative order pursuant to Section 62A-4a-1009, or documentation of a pending proceeding for any of the above; and

(v) there is no other state or federal law that would prohibit disclosure.

(b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be disclosed.



(c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section 62A-4a-1009, or documentation of a pending proceeding for any of the above.

(d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.

(6) Custodial or noncustodial parents or their legal representatives who are denied location information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

**62A-11-304.5. Financial institutions.**

(1) The office shall enter into agreements with financial institutions doing business in the state:

(a) to develop and operate, in coordination with such financial institutions, a data match system that:

(i) uses automated data exchanges to the maximum extent feasible; and

(ii) requires a financial institution each calendar quarter to provide the name, record address, social security number, other taxpayer identification number, or other identifying information for each obligor who:

(A) maintains an account at the institution; and

(B) owes past-due support as identified by the office by name and social security number or other taxpayer identification number; and

(b) to require a financial institution upon receipt of a notice of lien to encumber or surrender assets held by the institution on behalf of an obligor who is subject to a child support lien in accordance with Section 62A-11-304.1.

(2) The office may pay a reasonable fee to a financial institution for compliance with Subsection (1)(a), which may not exceed the actual costs incurred.

(3) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under Subsection (1).

(4) The office may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation.

(5) If an employee of the office knowingly, or by reason of negligence, discloses a financial record of an individual in violation of Subsection (4), the individual may bring a civil action for damages in a district court of the United States as provided for in the Social Security Act, 42 U.S.C. Sec. 669A.

(6) The office shall provide notice and disburse funds seized or encumbered under this section in accordance with Section 62A-11-304.1.

Enacted by Chapter 232, 1997 General Session

**62A-11-305. Support collection services requested by agency of another state.**

(1) In accordance with Title 78B, Chapter 14, Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section 62A-11-304.2 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:

(a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or

(b) an individual applies for services.

(2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.

(3) A request by another state shall constitute a certification by the requesting state:

(a) of the amount of support under the order of payment of which is in arrears; and

(b) that the requesting state has complied with procedural due process requirements applicable to the case.

(4) The office shall give automated administrative interstate enforcement requests the same priority as a two-state referral received from another state to enforce a support order.

(5) The office shall promptly report the results of the enforcement procedures to the requesting state.

(6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:

(a) the number of requests for enforcement assistance received by the office under this section;

(b) the number of cases for which the state collected support in response to those requests; and

(c) the amount of support collected.

Amended by Chapter 3, 2008 General Session

**62A-11-306.1. Issuance or modification of an order to collect support for persons not receiving public assistance.**

The office may proceed to issue or modify an order under Section 62A-11-304.2 and collect under this part even though public assistance is not being provided on behalf of a dependent child if the office provides support collection services in accordance with:

(1) an application for services provided under Title IV-D of the federal Social Security Act;

(2) the continued service provisions of Subsection 62A-11-307.2(5); or

(3) the interstate provisions of Section 62A-11-305.

Amended by Chapter 232, 1997 General Session

**62A-11-306.2. Mandatory review and adjustment of child support orders for TANF recipients.**

If a child support order has not been issued, adjusted, or modified within the previous three years and the children who are the subject of the order currently receive TANF funds, the office shall review the order, and if appropriate, move the tribunal to adjust the amount of the order if there is a difference of 10% or more between the payor's ordered support amount and the payor's support amount required under the guidelines.

Enacted by Chapter 282, 2007 General Session

**62A-11-307.1. Collection directly from responsible parent.**

(1) The office may issue or modify an order under Section 62A-11-304.2 and collect under this part directly from a responsible parent if the procedural requirements of applicable law have been met and if public assistance is provided on behalf of that parent's dependent child. The direct right to issue an order under this Subsection (1) is independent of and in addition to the right derived from that assigned under Section 35A-3-108.

(2) An order issuing or modifying a support obligation under Subsection (1), issued while public assistance was being provided for a dependent child, remains in effect and may be enforced by the office under Section 62A-11-306.1 after provision of public assistance ceases.

(3) (a) The office may issue or modify an administrative order, subject to the procedural requirements of applicable law, that requires that obligee to pay to the office assigned support that an obligee receives and retains in violation of Subsection 62A-11-307.2(4) and may reduce to judgment any unpaid balance due.

(b) The office may collect the judgment debt in the same manner as it collects any judgment for past-due support owed by an obligor.

Amended by Chapter 174, 1997 General Session

Amended by Chapter 232, 1997 General Session

**62A-11-307.2. Duties of obligee after assignment of support rights.**

(1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:

(a) Unless a good cause or other exception applies, the obligee shall, at the request of the office:

(i) cooperate in good faith with the office by providing the name and other identifying information of the other parent of the obligee's child for the purpose of:

(A) establishing paternity; or

(B) establishing, modifying, or enforcing a child support order;

(ii) supply additional necessary information and appear at interviews, hearings, and legal proceedings; and

(iii) submit the obligee's child and himself to judicially or administratively ordered genetic testing.

(b) The obligee may not commence an action against an obligor or file a pleading to collect or modify support without the office's written consent.

(c) The obligee may not do anything to prejudice the rights of the office to establish paternity, enforce provisions requiring health insurance, or to establish and collect support.

(d) The obligee may not agree to allow the obligor to change the court or administratively ordered manner or amount of payment of past, present, or future support without the office's written consent.

(2) (a) The office shall determine and redetermine, when appropriate, whether an obligee has cooperated with the office as required by Subsection (1)(a).

(b) If the office determines that an obligee has not cooperated as required by Subsection (1)(a), the office shall:

(i) forward the determination and the basis for it to the Department of Workforce Services, which shall inform the Department of Health of the determination, for a determination of whether compliance by the obligee should be excused on the basis of good cause or other exception; and

(ii) send to the obligee:

(A) a copy of the notice; and

(B) information that the obligee may, within 15 days of notice being sent:

(I) contest the office's determination of noncooperation by filing a written request for an adjudicative proceeding with the office; or

(II) assert that compliance should be excused on the basis of good cause or other exception by filing a written request for a good cause exception with the Department of Workforce Services.

(3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a dependent child.

(4) (a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.

(b) (i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.

(ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.

(5) If public assistance furnished on behalf of a dependent child is terminated, the office may continue to provide paternity establishment and support collection services. Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities

of an obligee who has applied for those services.

Amended by Chapter 174, 1997 General Session

Amended by Chapter 232, 1997 General Session

**62A-11-312.5. Liens by operation of law and writs of garnishment.**

(1) Each payment or installment of child support is, on and after the date it is due, a judgment with the same attributes and effect of any judgment of a district court in accordance with Section 78B-12-112 and for purposes of Section 78B-5-202.

(2) (a) A judgment under Subsection (1) or final administrative order shall constitute a lien against the real property of the obligor upon the filing of a notice of judgment-lien in the district court where the obligor's real property is located if the notice:

- (i) specifies the amount of past-due support; and
- (ii) complies with the procedural requirements of Section 78B-5-202.

(b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to execute a judgment or final administrative order under this section against real or personal property in the obligor's possession.

(3) (a) The office may issue a writ of garnishment against the obligor's personal property in the possession of a third party for a judgment under Subsection (1) or a final administrative order in the same manner and with the same effect as if the writ were issued on a judgment of a district court if:

- (i) the judgment or final administrative order is recorded on the office's automated case registry; and
- (ii) the writ is signed by the director or the director's designee and served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.

(b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 62A-11-316.

Amended by Chapter 3, 2008 General Session

**62A-11-313. Effect of Lien.**

(1) After receiving notice that a support lien has been filed under this part by the office, no person in possession of any property which may be subject to that lien may pay over, release, sell, transfer, encumber, or convey that property to any person other than the office, unless he first receives:

- (a) a release or waiver thereof from the office; or
- (b) a court order that orders release of the lien on the basis that the debt does not exist or has been satisfied.

(2) Whenever any such person has in his possession earnings, deposits, accounts, or balances in excess of \$100 over the amount of the debt claimed by the office, that person may, without liability under this part, release that excess to the obligor.

Amended by Chapter 62, 1989 General Session

**62A-11-315.5. Enforcement of liens arising in another state.**

A lien arising in another state shall be accorded full faith and credit in this state, without any additional requirement of judicial notice or hearing prior to the enforcement of the lien, if the office, parent, or state IV-D agency who seeks to enforce the lien complies with Section 62A-11-304.1 or Section 62A-11-312.5.

Enacted by Chapter 232, 1997 General Session

**62A-11-316. Requirement to honor voluntary assignment of earnings -- Discharge of employee prohibited -- Liability for discharge -- Earnings subject to support lien or garnishment.**

(1) (a) Every person, firm, corporation, association, political subdivision, or department of the state shall honor, according to its terms, a duly executed voluntary assignment of earnings which is presented by the office as a plan to satisfy or retire a support debt or obligation.

(b) The requirement to honor an assignment of earnings, and the assignment of earnings itself, are applicable whether the earnings are to be paid presently or in the future, and continue in effect until released in writing by the office.

(c) Payment of money pursuant to an assignment of earnings presented by the office shall serve as full acquittance under any contract of employment, and the state shall defend the employer and hold him harmless for any action taken pursuant to the assignment of earnings.

(d) The office shall be released from liability for improper receipt of money under an assignment of earnings upon return of any money so received.

(2) An employer may not discharge or prejudice any employee because his earnings have been subjected to support lien, wage assignment, or garnishment for any indebtedness under this part.

(3) If a person discharges an employee in violation of Subsection (2), he is liable to the employee for the damages he may suffer, and, additionally, to the office in an amount equal to the debt which is the basis of the assignment or garnishment, plus costs, interest, and attorneys' fees, or a maximum of \$1,000, whichever is less.

(4) The maximum part of the aggregate disposable earnings of an individual for any work pay period which may be subjected to a garnishment to enforce payment of a judicial or administrative judgment arising out of failure to support dependent children may not exceed 50% of his disposable earnings for the work pay period.

(5) The support lien or garnishment shall continue to operate and require that person to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released in writing by the court or office.

Amended by Chapter 203, 1988 General Session

**62A-11-319. Release of lien, attachment, or garnishment by department.**

The office may, at any time, release a support lien, wage assignment, attachment, or garnishment on all or part of the property of the obligor, or return seized property without liability, if assurance of payment is considered adequate by the office, or if that action will facilitate collection of the support debt. However, that release or return does not prevent future action to collect from the same or other property. The office may also waive provisions providing for the collection of interest on accounts due, if that waiver would facilitate collection of the support debt.

Enacted by Chapter 1, 1988 General Session

**62A-11-320. Payment schedules.**

- (1) The office may:
  - (a) set or reset a level and schedule of payments at any time consistent with the income, earning capacity, and resources of the obligor; or
  - (b) demand payment in full.
- (2) If a support debt is reduced to a schedule of payments and made subject to income withholding, the total monthly amount of the scheduled payment, current support payment, and cost of health insurance attributable to a child for whom the obligor has been ordered may only be subject to income withholding in an amount that does not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b).
- (3) (a) Within 15 days of receiving notice, an obligor may contest a payment schedule as inconsistent with Subsection (2) or the rules adopted by the office to establish payment schedules under Subsection (1) by filing a written request for an adjudicative proceeding.
  - (b) For purposes of Subsection (3)(a), notice includes:
    - (i) notice sent to the obligor by the office in accordance with Section 62A-11-304.4;
    - (ii) participation by the obligor in the proceedings related to the establishment of the payment schedule; and
    - (iii) receiving a paycheck in which a reduction has been made in accordance with a payment schedule established under Subsection (1).

Amended by Chapter 232, 1997 General Session

**62A-11-320.5. Review and adjustment of child support order in three-year cycle -- Substantial change in circumstances not required.**

- (1) If a child support order has not been issued, modified, or reviewed within the previous three years, the office shall review a child support order, taking into account the best interests of the child involved, if:
  - (a) requested by a parent or legal guardian involved in a case receiving IV-D services; or
  - (b) there has been an assignment under Section 35A-3-108 and the office determines that a review is appropriate.
- (2) If the office conducts a review under Subsection (1), the office shall

determine if there is a difference of 10% or more between the amount ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:

(a) with respect to a child support order issued or modified by the office, adjust the amount to that which is provided for in the guidelines; or

(b) with respect to a child support order issued or modified by a court, file a petition with the court to adjust the amount to that which is provided for in the guidelines.

(3) The office may use automated methods to:

(a) collect information and conduct reviews under Subsection (2); and

(b) identify child support orders in which there is a difference of 10% or more between the amount of child support ordered and the amount that would be required under the child support guidelines for review under Subsection (1)(b).

(4) (a) A parent or legal guardian who requests a review under Subsection (1)(a) shall provide notice of the request to the other parent within five days and in accordance with Section 62A-11-304.4.

(b) If the office conducts a review under Subsections (1)(b) and (3)(b), the office shall provide notice to the parties of:

(i) a proposed adjustment under Subsection (2)(a); or

(ii) a proposed petition to be filed in court under Subsection (2)(b).

(5) (a) Within 30 days of notice being sent under Subsection (4)(a), a parent or legal guardian may respond to a request for review filed with the office.

(b) Within 30 days of notice being sent under Subsection (4)(b), a parent or legal guardian may contest a proposed adjustment or petition by requesting a review under Subsection (1)(a) and providing documentation that refutes the adjustment or petition.

(6) A showing of a substantial change in circumstances is not necessary for an adjustment under this section.

Repealed and Re-enacted by Chapter 232, 1997 General Session

**62A-11-320.6. Review and adjustment of support order for substantial change in circumstances outside three-year cycle.**

(1) (a) A parent or legal guardian involved in a case receiving IV-D services or the office, if there has been an assignment under Section 35A-3-108, may at any time request the office to review a child support order if there has been a substantial change in circumstances.

(b) For purposes of Subsection (1)(a), a substantial change in circumstances may include:

(i) material changes in custody;

(ii) material changes in the relative wealth or assets of the parties;

(iii) material changes of 30% or more in the income of a parent;

(iv) material changes in the ability of a parent to earn;

(v) material changes in the medical needs of the child; and

(vi) material changes in the legal responsibilities of either parent for the support



of others.

(2) Upon receiving a request under Subsection (1), the office shall review the order, taking into account the best interests of the child involved, to determine whether the substantial change in circumstance has occurred, and if so, whether the change resulted in a difference of 15% or more between the amount of child support ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:

(a) with respect to a support order issued or modified by the office, adjust the amount in accordance with the guidelines; or

(b) with respect to a support order issued or modified by a court, file a petition with the court to adjust the amount in accordance with the guidelines.

(3) The office may use automated methods to collect information for a review conducted under Subsection (2).

(4) (a) A parent or legal guardian who requests a review under Subsection (1) shall provide notice of the request to the other parent within five days and in accordance with Section 62A-11-304.4.

(b) If the office initiates and conducts a review under Subsection (1), the office shall provide notice of the request to any parent or legal guardian within five days and in accordance with Section 62A-11-304.4.

(5) Within 30 days of notice being sent under Subsection (4), a parent or legal guardian may file a response to a request for review with the office.

Enacted by Chapter 232, 1997 General Session

**62A-11-320.7. Three-year notice of opportunity to review.**

(1) Once every three years, the office shall give notice to each parent or legal guardian involved in a case receiving IV-D services of the opportunity to request a review and, if appropriate, adjustment of a child support order under Sections 62A-11-320.5 and 62A-11-320.6.

(2) (a) The notice required by Subsection (1) may be included in an issued or modified order of support.

(b) Notwithstanding Subsection (2)(a), the office shall comply with Subsection (1), three years after the date of the order issued or modified under Subsection (2)(a).

Enacted by Chapter 232, 1997 General Session

**62A-11-321. Posting bond or security for payment of support debt -- Procedure.**

(1) The office shall, or an obligee may, petition the court for an order requiring an obligor to post a bond or provide other security for the payment of a support debt, if the office or an obligee determines that action is appropriate, and if the payments are more than 90 days delinquent. The office shall establish rules for determining when it shall seek an order for bond or other security.

(2) When the office or an obligee petitions the court under this section, it shall give written notice to the obligor, stating:

- (a) the amount of support debt;
  - (b) that it has petitioned the court for an order requiring the obligor to post security; and
  - (c) that the obligor has the right to appear before the court and contest the office's or obligee's petition.
- (3) After notice to the obligor and an opportunity for a hearing, the court shall order a bond posted or other security to be deposited upon the office's or obligee's showing of a support debt and of a reasonable basis for the security.

Enacted by Chapter 1, 1988 General Session

**62A-11-326. Medical and dental expenses of dependent children.**

- In any action under this part, the office and the department in their orders shall:
- (1) include a provision assigning responsibility for cash medical support;
  - (2) include a provision requiring the purchase and maintenance of appropriate medical, hospital, and dental care insurance for those children, if:
    - (a) insurance coverage is or becomes available at a reasonable cost; and
    - (b) the insurance coverage is accessible to the children; and
  - (3) include a designation of which health, dental or hospital insurance plan, is primary and which is secondary in accordance with the provisions of Section 30-3-5.4 which will take effect if at any time the dependent children are covered by both parents' health, hospital, or dental insurance plans.

Amended by Chapter 285, 2010 General Session

**62A-11-326.1. Enrollment of child in accident and health insurance plan -- Order -- Notice.**

- (1) The office may issue a notice to existing and future employers or unions to enroll a dependent child in an accident and health insurance plan that is available through the dependent child's parent or legal guardian's employer or union, when the following conditions are satisfied:
- (a) the parent or legal guardian is already required to obtain insurance coverage for the child by a prior court or administrative order; and
  - (b) the parent or legal guardian has failed to provide written proof to the office that:
    - (i) the child has been enrolled in an accident and health insurance plan in accordance with the court or administrative order; or
    - (ii) the coverage required by the order was not available at group rates through the employer or union 30 or more days prior to the date of the mailing of the notice to enroll.
- (2) The office shall provide concurrent notice to the parent or legal guardian in accordance with Section 62A-11-304.4 of:
- (a) the notice to enroll sent to the employer or union; and
  - (b) the opportunity to contest the enrollment due to a mistake of fact by filing a written request for an adjudicative proceeding with the office within 15 days of the

notice being sent.

(3) A notice to enroll shall result in the enrollment of the child in the parent's accident and health insurance plan, unless the parent successfully contests the notice based on a mistake of fact.

(4) A notice to enroll issued under this section may be considered a "qualified medical support order" for the purposes of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

Amended by Chapter 116, 2001 General Session

**62A-11-326.2. Compliance with order -- Enrollment of dependent child for insurance.**

(1) An employer or union shall comply with a notice to enroll issued by the office under Section 62A-11-326.1 by enrolling the dependent child that is the subject of the notice in the:

(a) accident and health insurance plan in which the parent or legal guardian is enrolled, if the plan satisfies the prior court or administrative order; or

(b) least expensive plan, assuming equivalent benefits, offered by the employer or union that complies with the prior court or administrative order which provides coverage that is reasonably accessible to the dependent child.

(2) The employer, union, or insurer may not refuse to enroll a dependent child pursuant to a notice to enroll because a parent or legal guardian has not signed an enrollment application.

(3) Upon enrollment of the dependent child, the employer shall deduct the appropriate premiums from the parent or legal guardian's wages and remit them directly to the insurer.

(4) The insurer shall provide proof of insurance to the office upon request.

(5) The signature of the custodial parent of the insured dependent is a valid authorization to the insurer for purposes of processing any insurance reimbursement claim.

Amended by Chapter 116, 2001 General Session

**62A-11-326.3. Determination of parental liability.**

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the office may determine by order the amount of a parent's liability for uninsured medical, hospital, and dental expenses of a dependent child, when the parent:

(a) is required by a prior court or administrative order to:

(i) share those expenses with the other parent of the dependent child; or

(ii) obtain medical, hospital, or dental care insurance but fails to do so; or

(b) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.

(2) If the prior court or administrative order does not specify what proportions of the expenses are to be shared, the office may determine the amount of liability in

accordance with established rules.

(3) This section applies to an order without regard to when it was issued.

Amended by Chapter 382, 2008 General Session

**62A-11-327. Reporting past-due support to consumer reporting agency.**

The office shall periodically report the name of any obligor who is delinquent in the payment of support and the amount of overdue support owed by the obligor to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a(f):

(1) only after the obligor has been afforded notice and a reasonable opportunity to contest the accuracy of the information; and

(2) only to an entity that has provided satisfactory evidence that it is a consumer reporting agency under 15 U.S.C. Sec. 1681a(f).

Repealed and Re-enacted by Chapter 232, 1997 General Session

**62A-11-328. Information received from State Tax Commission provided to other states' child support collection agencies.**

The office shall, upon request, provide to any other state's child support collection agency the information which it receives from the State Tax Commission under Subsection 59-1-403(3)(l), with regard to a support debt which that agency is involved in enforcing.

Amended by Chapter 31, 2009 General Session

**62A-11-333. Right to judicial review.**

(1) (a) Within 30 days of notice of any administrative action on the part of the office to establish paternity or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.

(b) For purposes of Subsection (1)(a), notice includes:

(i) notice actually received by the obligor in accordance with Section 62A-11-304.4;

(ii) participation by the obligor in the proceedings related to the establishment of the paternity or the modification or enforcement of child support; or

(iii) receiving a paycheck in which a reduction has been made for child support.

(2) The petition shall name the office and all other appropriate parties as respondents and meet the form requirements specified in Section 63G-4-402.

(3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.

(4) (a) If the petition is regarding the amount of the child support obligation established in accordance with Title 78B, Chapter 12, Utah Child Support Act, the court may issue a temporary order for child support until a final order is issued.

(b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that

amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.

(c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).

(d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.

(5) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated U.R. Civ. P. Rule 11 by filing the action. If the court determines that U.R.Civ.P. Rule 11 was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

#### **62A-11-401. Definitions.**

As used in this part, Part 5, and Part 7:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child" is defined in Section 62A-11-303.

(3) "Child support" means a base child support award as defined in Section 78B-12-102, or a financial award for uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages which accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs. Child support includes obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child resides if the spousal support is collected with the child support.

(4) "Child support order" or "support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for child support and related costs and fees, interest and penalties, income withholding, attorney fees, and other relief.

(5) "Child support services" is defined in Section 62A-11-103.

(6) "Delinquent" or "delinquency" means that child support in an amount at least equal to current child support payable for one month is overdue.

(7) "Immediate income withholding" means income withholding without regard to whether a delinquency has occurred.

(8) "Income" is defined in Section 62A-11-103.

(9) "Jurisdiction" means a state or political subdivision of the United States, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, an Indian tribe or tribal organization, or any comparable foreign nation or political subdivision.

(10) "Obligee" is defined in Section 62A-11-303.

- (11) "Obligor" is defined in Section 62A-11-303.
- (12) "Office" is defined in Section 62A-11-103.
- (13) "Payor" means an employer or any person who is a source of income to an obligor.

Amended by Chapter 3, 2008 General Session  
Amended by Chapter 73, 2008 General Session

**62A-11-402. Administrative procedures.**

Because the procedures of this part are mandated by federal law they shall be applied for the purposes specified in this part and control over any other statutory administrative procedures.

Enacted by Chapter 1, 1988 General Session

**62A-11-403. Provision for income withholding in child support order -- Immediate income withholding.**

(1) Whenever a child support order is issued or modified in this state the obligor's income is subject to immediate income withholding for the child support described in the order in accordance with the provisions of this chapter, unless:

(a) the court or administrative body which entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) In every child support order issued or modified on or after January 1, 1994, the court or administrative body shall include a provision that the income of an obligor is subject to immediate income withholding in accordance with this chapter. If for any reason other than the provisions of Subsection (1) that provision is not included in the child support order the obligor's income is nevertheless subject to immediate income withholding.

(3) In determining "good cause," the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(a) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(b) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(c) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

Amended by Chapter 131, 2007 General Session

**62A-11-404. Office procedures for income withholding for orders issued or modified on or after October 13, 1990.**

(1) With regard to obligees or obligors who are receiving IV-D services, each child support order issued or modified on or after October 13, 1990, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause not to require immediate income withholding; or

(b) a written agreement that provides an alternative arrangement is executed by the obligor and obligee, and by the office, if there is an assignment under Section 35A-3-108, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) "good cause" shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support;

(b) in determining "good cause," the court or administrative body may, in addition to any other requirement that it determines appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months; and

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained.

(3) An exception from immediate income withholding shall be:

(a) included in the court or administrative agency's child support order; and

(b) negated without further administrative or judicial action:

(i) upon a delinquency;

(ii) upon the obligor's request; or

(iii) if the office, based on internal procedures and standards, or a party requests immediate income withholding for a case in which the parties have entered into an alternative arrangement to immediate income withholding pursuant to Subsection (1)(b).

(4) If an exception to immediate income withholding has been ordered on the basis of good cause under Subsection (1)(a), the office may commence income withholding under this part:

(a) in accordance with Subsection (3)(b); or

(b) if the administrative or judicial body that found good cause determines that circumstances no longer support that finding.

(5) (a) A party may contest income withholding due to a mistake of fact by filing a written objection with the office within 15 days of the commencement of income

withholding under Subsection (4).

(b) If a party contests income withholding under Subsection (5)(a), the office shall proceed with the objection as it would an objection filed under Section 62A-11-405.

(6) Income withholding implemented under this section is subject to termination under Section 62A-11-408.

(7) (a) Income withholding under the order may be effective until the obligor no longer owes child support to the obligee.

(b) Appropriate income withholding procedures apply to existing and future payors and all withheld income shall be submitted to the office.

Repealed and Re-enacted by Chapter 232, 1997 General Session

**62A-11-405. Office procedures for income withholding for orders issued or modified before October 13, 1990.**

(1) With regard to child support orders issued prior to October 13, 1990, and not otherwise modified after that date, and for which an obligor or obligee is receiving IV-D services, the office shall proceed to withhold income as a means of collecting child support if a delinquency occurs under the order, regardless of whether the relevant child support order includes authorization for income withholding.

(2) Upon receipt of a verified statement or affidavit alleging that a delinquency has occurred, the office shall:

(a) send notice to the payor for income withholding in accordance with Section 62A-11-406; and

(b) send notice to the obligor under Section 62A-11-304.4 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing a written request for review under this section with the office within 15 days.

(3) If the obligor contests the withholding, the office shall:

(a) provide an opportunity for the obligor to provide documentation and, if necessary, to present evidence supporting the obligor's claim of mistake of fact;

(b) decide whether income withholding shall continue;

(c) notify the obligor of its decision and the obligor's right to appeal under Subsection (4); and

(d) at the obligor's option, return, if in the office's possession, or credit toward the most current and future support obligations of the obligor any amount mistakenly withheld and, if the mistake is attributable to the office, interest at the legal rate.

(4) (a) An obligor may appeal the office's decision to withhold income under Subsection (3) by filing an appeal with the district court within 30 days after service of the notice under Subsection (3) and immediately notifying the office in writing of the obligor's decision to appeal.

(b) The office shall proceed with income withholding under this part during the



appeal, but shall hold all funds it receives, except current child support, in a reserve account pending the court's decision on appeal. The funds, plus interest at the legal rate, shall be paid to the party determined by the court.

(c) If an obligor appeals a decision of the office to a district court under Subsection (4)(a), the obligor shall provide to the obligee:

(i) notice of the obligor's appeal; and  
(ii) a copy of any documents filed by the obligor upon the office in connection with the appeal.

(5) An obligor's payment of overdue child support may not be the sole basis for not implementing income withholding in accordance with this part.

Amended by Chapter 232, 1997 General Session

**62A-11-406. Notice to payor.**

Upon compliance with the applicable provisions of this part the office shall mail or deliver to each payor at the payor's last-known address written notice stating:

(1) the amount of child support to be withheld from income;  
(2) that the child support must be withheld from the obligor's income each time the obligor is paid, but that the amount withheld may not exceed the maximum amount permitted under Section 303 (b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b);

(3) that the payor must mail or deliver the withheld income to the office within seven business days of the date the amount would have been paid or credited to the employee but for this section;

(4) that the payor may deduct from the obligor's income an additional amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b);

(5) that the notice to withhold is binding on the payor and on any future payor until further notice by the office or a court;

(6) (a) that if the payor fails to mail or deliver withheld income to the office within the time period set in Subsection (3), the payor is liable to the office for a late fee of \$50 or 10% of the withheld income, whichever is greater, for each payment that is late, per obligor; and

(b) that if the payor willfully fails to withhold income in accordance with the notice, the payor is liable to the office for \$1,000 or the accumulated amount the payor should have withheld, whichever is greater, plus interest on that amount;

(7) that the notice to withhold is prior to any other legal process under state law;

(8) that the payor must begin to withhold income no later than the first time the obligor's earnings are normally paid after five working days from the date the payor receives the notice;

(9) that the payor must notify the office within five days after the obligor terminates employment or the periodic income payment is terminated, and provide the obligor's last-known address and the name and address of any new payor, if known;

(10) that if the payor discharges, refuses to employ, or takes disciplinary action against an obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section 62A-11-316, and to the office for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which the payor should have withheld, plus interest on that amount; and

(11) that, in addition to any other remedy provided in this section, the payor is liable for costs and reasonable attorneys' fees incurred in enforcing any provision in a notice to withhold mailed or delivered to the payor's last-known address.

Amended by Chapter 161, 2000 General Session

**62A-11-407. Payor's procedures for income withholding.**

(1) (a) A payor is subject to the requirements, penalties, and effects of a notice served on the payor under Section 62A-11-406.

(b) A payment of withheld income mailed to the office in an envelope postmarked within seven business days of the date the amount would have been paid or credited to the obligor but for this section satisfies Subsection 62A-11-406(3).

(2) (a) If a payor fails to comply with a notice served upon him under Section 62A-11-406, the office, the obligee, if an assignment has not been made under Section 35A-7-108, or the obligor may proceed with a civil action against the payor to enforce a provision of the notice.

(b) In addition to a civil action under Subsection (2)(a), the office may bring an administrative action pursuant to Title 63G, Chapter 4, Administrative Procedures Act, to enforce a provision of the notice.

(c) If an obligee or obligor brings a civil action under Subsection (2)(a) to enforce a provision of the notice, the obligee or obligor may recover any penalty related to that provision under Section 62A-11-406 in place of the office.

(3) If the obligor's child support is owed monthly and the payor's pay periods are at more frequent intervals, the payor, with the consent of the office may withhold an equal amount at each pay period cumulatively sufficient to pay the monthly child support obligation.

(4) A payor may combine amounts which the payor has withheld from the incomes of multiple obligors into a single payment to the office. If such a combined payment is made, the payor shall specify the amount attributable to each individual obligor by name and Social Security number.

(5) In addition to any other remedy provided in this section, a payor is liable to the office, obligee, or obligor for costs and reasonable attorneys' fees incurred in enforcing a provision in the notice mailed or delivered under Section 62A-11-406.

(6) Notwithstanding this section or Section 62A-11-406, if a payor receives an income withholding order or notice issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(a) the payor's fee for processing income withholding;

(b) the maximum amount permitted to be withheld from the obligor's income;

(c) the time periods within which the payor must implement income withholding

and forward child support payments;

(d) the priorities for withholding and allocating withheld income for multiple child support obligees; and

(e) any term or condition for withholding not specified in the notice.

Amended by Chapter 382, 2008 General Session

**62A-11-408. Termination of income withholding.**

(1) (a) At any time after the date income withholding begins, a party to the child support order may request a judicial hearing or administrative review to determine whether income withholding should be terminated due to:

(i) good cause under Section 62A-11-404;

(ii) the execution of a written agreement under Section 62A-11-404; or

(iii) the completion of an obligor's support obligation.

(b) An obligor's payment of overdue child support may not be the sole basis for termination of income withholding.

(c) If it is determined by a court or the office that income withholding should be terminated, the office shall give written notice of termination to each payor within 10 days after receipt of notice of that decision.

(d) If, after termination of income withholding by court or administrative order, an obligor's child support obligation becomes delinquent or subject to immediate and automatic income withholding under Section 62A-11-404, the office shall reinstate income withholding procedures in accordance with the provisions of this part.

(e) If the office terminates income withholding through an agreement with a party, the office may reinstate income withholding if:

(i) a delinquency occurs;

(ii) the obligor requests reinstatement;

(iii) the obligee requests reinstatement; or

(iv) the office, based on internal procedures and standards, determines reinstatement is appropriate.

(2) The office shall give written notice of termination to each payor when the obligor no longer owes child support to the obligee.

(3) A notice to withhold income, served by the office, is binding on a payor until the office notifies the payor that the obligation to withhold income has been terminated.

Amended by Chapter 232, 1997 General Session

**62A-11-409. Payor's compliance with income withholding.**

(1) Payment by a payor under this part satisfies the terms for payment of income under any contract between a payor and obligor.

(2) A payor who complies with an income withholding notice that is regular on its face may not be subject to civil liability to any person for conduct in compliance with the notice.

Amended by Chapter 232, 1997 General Session

**62A-11-410. Violations by payor.**

(1) A payor may not discharge, refuse to hire, or discipline any obligor because of a notice to withhold served by the office under this part, or because of a notice or order served by an obligee in a civil action for income withholding.

(2) If the payor violates Subsection (1), that payor is liable to the office, or to the obligee seeking income withholding in a civil action, for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which he should have withheld, plus interest on that amount and costs incurred in collection of the amount from the payor, including a reasonable attorney's fee.

Enacted by Chapter 1, 1988 General Session

**62A-11-411. Priority of notice or order to withhold income.**

The notice to withhold provided by Section 62A-11-406, and a notice or order to withhold issued by the court in a civil action for income withholding, are prior to all other legal collection processes provided by state law, including garnishment, attachment, execution, and wage assignment.

Enacted by Chapter 1, 1988 General Session

**62A-11-413. Records and documentation -- Distribution or refund of collected income -- Allocation of payments among multiple notices to withhold.**

(1) The office shall keep adequate records to document and monitor all child support payments received under this part.

(2) The office shall promptly distribute child support payments which it receives from a payor, to the obligee, unless those payments are owed to the department.

(3) The office shall promptly refund any improperly withheld income to the obligor.

(4) The office may allocate child support payments received from an obligor under this part among multiple notices to withhold which it has issued with regard to that obligor, in accordance with rules promulgated by the office to govern that procedure.

Enacted by Chapter 1, 1988 General Session

**62A-11-414. Income withholding upon obligor's request.**

Whether or not a delinquency has occurred, an obligor may request that the office implement income withholding procedures under this part for payment of his child support obligations.

Enacted by Chapter 1, 1988 General Session

**62A-11-501. Definitions -- Application.**

(1) The requirements of this part apply only to cases in which neither the obligee nor the obligor is receiving IV-D services.

(2) For purposes of this part the definitions contained in Section 62A-11-401 apply.

Amended by Chapter 232, 1997 General Session

**62A-11-502. Child support orders issued or modified on or after January 1, 1994 -- Immediate income withholding.**

(1) With regard to obligees or obligors who are not receiving IV-D services, each child support order issued or modified on or after January 1, 1994, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) an action on or after January 1, 1994, to reduce child support arrears to judgment, without a corresponding establishment of or modification to a base child support amount, is not sufficient to trigger immediate income withholding;

(b) "good cause" shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support;

(c) in determining "good cause," the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(iii) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

(3) In cases where the court or administrative body that entered the order finds a demonstration of good cause or enters a written agreement that immediate income withholding is not required, in accordance with this section, any party may subsequently pursue income withholding on the earliest of the following dates:

(a) the date payment of child support becomes delinquent;

(b) the date the obligor requests;

(c) the date the obligee requests if a written agreement under Subsection (1)(b)

exists; or

(d) the date the court or administrative body so modifies that order.

(4) The court shall include in every child support order issued or modified on or after January 1, 1994, a provision that the income of an obligor is subject to income withholding in accordance with this chapter; however, if for any reason that provision is not included in the child support order, the obligor's income is nevertheless subject to income withholding.

(5) (a) In any action to establish or modify a child support order after July 1, 1997, the court, upon request by the obligee or obligor, shall commence immediate income withholding by ordering the clerk of the court or the requesting party to:

(i) mail written notice to the payor at the payor's last-known address that contains the information required by Section 62A-11-506; and

(ii) mail a copy of the written notice sent to the payor under Subsection (5)(a)(i) and a copy of the support order to the office.

(b) If neither the obligee nor obligor requests commencement of income withholding under Subsection (5)(a), the court shall include in the order to establish or modify child support a provision that the obligor or obligee may commence income withholding by:

(i) applying for IV-D services with the office; or

(ii) filing an ex parte motion with a district court of competent jurisdiction pursuant to Section 62A-11-504.

(c) A payor who receives written notice under Subsection (5)(a)(i) shall comply with the requirements of Section 62A-11-507.

Amended by Chapter 131, 2007 General Session

**62A-11-503. Requirement of employment and location information.**

(1) As of July 1, 1997, a court, before issuing or modifying an order of support, shall require the parties to file the information required under Section 62A-11-304.4.

(2) If a party fails to provide the information required by Section 62A-11-304.4, the court shall issue or modify an order upon receipt of a verified representation of employment or source of income for that party based on the best evidence available if:

(a) that party has participated in the current proceeding;

(b) the notice and service of process requirements of the Utah Rules of Civil Procedure have been met if the case is before the court to establish an original order of support; or

(c) the notice requirements of Section 62A-11-304.4 have been met if the case is before the court to modify an existing order.

(3) A court may restrict the disclosure of information required by Section 62A-11-304.4:

(a) in accordance with a protective order involving the parties; or

(b) if the court has reason to believe that the release of information may result in physical or emotional harm by one party to the other party.

Repealed and Re-enacted by Chapter 232, 1997 General Session

**62A-11-504. Procedures for commencing income withholding.**

(1) If income withholding has not been commenced in connection with a child support order, an obligee or obligor may commence income withholding by:

- (a) applying for IV-D services from the office; or
- (b) filing an ex parte motion for income withholding with a district court of competent jurisdiction.

(2) The office shall commence income withholding in accordance with Part 4 of this chapter upon receipt of an application for IV-D services under Subsection (1)(a).

(3) A court shall grant an ex parte motion to commence income withholding filed under Subsection (1)(b) regardless of whether the child support order provided for income withholding, if the obligee provides competent evidence showing:

(a) the child support order was issued or modified after January 1, 1994, and the obligee or obligor expresses a desire to commence income withholding;

(b) the child support order was issued or modified after January 1, 1994, and the order contains a good cause exception to income withholding as provided for in Section 62A-11-502, and a delinquency has occurred; or

(c) the child support order was issued or modified before January 1, 1994, and a delinquency has occurred.

(4) If a court grants an ex parte motion under Subsection (3), the court shall order the clerk of the court or the requesting party to:

(a) mail written notice to the payor at the payor's last-known address that contains the information required by Section 62A-11-506;

(b) mail a copy of the written notice sent to the payor under Subsection (4)(a) to the nonrequesting party's address and a copy of the support order and the notice to the payor to the office; and

(c) if the obligee is the requesting party, send notice to the obligor under Section 62A-11-304.4 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing an objection with the court within 20 days.

(5) A payor who receives written notice under Subsection (4)(a) shall comply with the requirements of Section 62A-11-507.

(6) If an obligor contests withholding, the court shall:

(a) provide an opportunity for the obligor to present evidence supporting his claim of a mistake of fact;

(b) decide whether income withholding should continue;

(c) notify the parties of the decision; and

(d) at the obligor's option, return or credit toward the most current and future support payments of the obligor any amount mistakenly withheld plus interest at the legal rate.

Amended by Chapter 188, 1998 General Session

**62A-11-505. Responsibilities of the office.**

The office shall document and distribute payments in the manner provided for and in the time required by Section 62A-11-413 and federal law upon receipt of:

- (1) a copy of the written notice sent to the payor under Section 62A-11-502 or Section 62A-11-504;
- (2) the order of support;
- (3) the obligee's address; and
- (4) withheld income from the payor.

Enacted by Chapter 232, 1997 General Session

**62A-11-506. Notice to payor.**

- (1) A notice mailed or delivered to a payor under this part shall state in writing:
  - (a) the amount of child support to be withheld from income;
  - (b) that the child support must be withheld from the obligor's income each time the obligor is paid, but that the amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Section 1673(b);
  - (c) that the payor must mail or deliver the withheld income to the office within seven business days of the date the amount would have been paid or credited to the employee but for this section;
  - (d) that the payor may deduct from the obligor's income an additional amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Section 1673(b);
  - (e) that the notice to withhold is binding on the payor and on any future payor until further notice by the office or a court;
  - (f) (i) that if the payor fails to mail or deliver withheld income to the office within the time period set in Subsection (1)(c), the payor is liable to the obligee for a late fee of \$50 or 10% of the withheld income, whichever is greater, for each payment that is late; and
  - (ii) that if the payor willfully fails to withhold income in accordance with the notice, the payor is liable to the obligee for \$1,000 or the accumulated amount the payor should have withheld, whichever is greater, plus interest on that amount;
  - (g) that the notice to withhold is prior to any other legal process under state law;
  - (h) that the payor must begin to withhold income no later than the first time the obligor's earnings are normally paid after five working days from the date the payor receives the notice;
  - (i) that the payor must notify the office within five days after the obligor terminates employment or the periodic income payment is terminated, and provide the obligor's last-known address and the name and address of any new payor, if known;
  - (j) that if the payor discharges, refuses to employ, or takes disciplinary action against an obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section 62A-11-316 and the obligee for the greater of \$1,000 or the amount



of child support accumulated to the date of discharge which the payor should have withheld plus interest on that amount; and

(k) that, in addition to any other remedy provided in this section, the payor is liable to the obligee or obligor for costs and reasonable attorneys' fees incurred in enforcing a provision in a notice to withhold mailed or delivered under Section 62A-11-502 or 62A-11-504.

(2) If the obligor's employment with a payor is terminated, the office shall, if known and if contacted by the obligee, inform the obligee of:

- (a) the obligor's last-known address; and
- (b) the name and address of any new payor.

Amended by Chapter 161, 2000 General Session

**62A-11-507. Payor's procedures for income withholding.**

(1) (a) A payor is subject to the requirements, penalties, and effects of a notice mailed or delivered to him under Section 62A-11-506.

(b) A payment of withheld income mailed to the office in an envelope postmarked within seven business days of the date the amount would have been paid or credited to the obligor but for this section satisfies Subsection 62A-11-506(1)(c).

(2) If a payor fails to comply with the requirements of a notice served upon him under Section 62A-11-506, the obligee, or obligor may proceed with a civil action against the payor to enforce a provision of the notice.

(3) If the obligor's child support is owed monthly and the payor's pay periods are at more frequent intervals, the payor, with the consent of the office or obligee, may withhold an equal amount at each pay period cumulatively sufficient to pay the monthly child support obligation.

(4) A payor may combine amounts which he has withheld from the income of multiple obligors into a single payment to the office. If such a combined payment is made, the payor shall specify the amount attributable to each individual obligor by name and Social Security number.

(5) In addition to any other remedy provided in this section, a payor is liable to the obligee or obligor for costs and reasonable attorneys' fees incurred in enforcing a provision of the notice mailed or delivered under Section 62A-11-506.

(6) Notwithstanding this section or Section 62A-11-506, if a payor receives an income withholding order or notice issued by another state, the payor shall apply the income withholding law of the state of the obligor's principal place of business in determining:

- (a) the payor's fee for processing income withholding;
- (b) the maximum amount permitted to be withheld from the obligor's income;
- (c) the time periods within which the payor must implement income withholding and forward child support payments;
- (d) the priorities for withholding and allocating withheld income for multiple child support obligees; and
- (e) any terms or conditions for withholding not specified in the notice.

Enacted by Chapter 232, 1997 General Session

**62A-11-508. Termination of income withholding.**

(1) (a) At any time after the date income withholding begins, a party to the child support order may request a court to determine whether income withholding should be terminated due to:

- (i) good cause under Section 62A-11-502; or
- (ii) the completion of an obligor's support obligation.

(b) An obligor's payment of overdue child support may not be the sole basis for termination of income withholding.

(c) After termination of income withholding under this section, a party may seek reinstatement of income withholding under Section 62A-11-504.

(2) (a) If it is determined that income withholding should be terminated under Subsection (1)(a)(i), the court shall order written notice of termination be given to each payor within 10 days after receipt of notice of that decision.

(b) The obligee shall give written notice of termination to each payor:

- (i) when the obligor no longer owes child support to the obligee; or
- (ii) if the obligee and obligor enter into a written agreement that provides an alternative arrangement, which may be filed with the court.

(3) A notice to withhold income is binding on a payor until the court or the obligee notifies the payor that his obligation to withhold income has been terminated.

Enacted by Chapter 232, 1997 General Session

**62A-11-509. Payor's compliance with income withholding.**

(1) Payment by a payor under this part satisfies the terms for payment of income under any contract between a payor and obligor.

(2) A payor who complies with an income withholding notice that is regular on its face may not be subject to civil liability to any person for conduct in compliance with the notice.

Enacted by Chapter 232, 1997 General Session

**62A-11-510. Violations by payor.**

(1) A payor may not discharge, refuse to hire, or discipline any obligor because of a notice to withhold under this part.

(2) If a payor violates Subsection (1), the payor is liable to the obligor as provided in Section 62A-11-316 and the obligee for the greater of \$1,000 or the amount of child support accumulated to the date of discharge which should have been withheld plus interest on that amount and costs incurred in collecting the amount, including reasonable attorneys' fees.

Enacted by Chapter 232, 1997 General Session

**62A-11-511. Priority of notice or order to withhold income.**

The notice to withhold under this part is prior to all other legal collection processes provided by state law, including garnishment, attachment, execution, and wage assignment.

Enacted by Chapter 232, 1997 General Session

**62A-11-601. Title.**

This part is known as the "Administrative License Suspension Child Support Enforcement Act."

Enacted by Chapter 338, 2007 General Session

**62A-11-602. Definitions.**

As used in this part:

- (1) "Child support" is as defined in Section 62A-11-401.
- (2) "Delinquent on a child support obligation" means that a person:
  - (a) (i) made no payment for 60 days on a current child support obligation as set forth in an administrative or court order;
  - (ii) after the 60-day period described in Subsection (2)(a)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the order; and
  - (iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears; or
  - (b) (i) made no payment for 60 days on an arrearage obligation of child support as set forth in:
    - (A) a payment schedule;
    - (B) a written agreement with the office; or
    - (C) an administrative or judicial order;
  - (ii) after the 60-day period described in Subsection (2)(b)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the payment schedule, agreement, or order; and
  - (iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears.
- (3) "Driver license" means a license, as defined in Section 53-3-102.
- (4) "Driver License Division" means the Driver License Division of the Department of Public Safety created in Section 53-3-103.
- (5) "Office" means the Office of Recovery Services created in Section 62A-11-102.

Enacted by Chapter 338, 2007 General Session

**62A-11-603. Suspension of driver license for child support delinquency -- Reinstatement.**

- (1) Subject to the provisions of this section, the office may order the suspension of a person's driver license if the person is delinquent on a child support obligation.

(2) Before ordering a suspension of a person's driver license, the office shall serve the person with a "notice of intent to suspend driver license."

(3) The notice described in Subsection (2) shall:

(a) be personally served or served by certified mail;

(b) except as otherwise provided in this section, comply with Title 63G, Chapter 4, Administrative Procedures Act;

(c) state the amount that the person is in arrears on the person's child support obligation; and

(d) state that, if the person desires to contest the suspension of the person's driver license, the person must request an informal adjudicative proceeding with the office within 30 days after the day on which the notice is mailed or personally served.

(4) (a) The office shall hold an informal adjudicative proceeding to determine whether a person's driver license should be suspended if the person requests a hearing within 30 days after the day on which the notice described in Subsection (2) is mailed or personally served on the person.

(b) The informal adjudicative proceeding described in Subsection (4)(a), and any appeal of the decision rendered in that proceeding, shall comply with Title 63G, Chapter 4, Administrative Procedures Act.

(5) Except as provided in Subsection (6), the office may order that a person's driver license be suspended:

(a) if, after the notice described in Subsection (2) is mailed or personally served, the person fails to request an informal adjudicative proceeding within the time period described in Subsection (4)(a); or

(b) following the informal adjudicative proceeding described in Subsection (4)(a), if:

(i) the presiding officer finds that the person is delinquent on a child support obligation; and

(ii) the finding described in Subsection (5)(b)(i):

(A) is not timely appealed; or

(B) is upheld after a timely appeal becomes final.

(6) The office may not order the suspension of a person's driver license if the person:

(a) pays the full amount that the person is in arrears on the person's child support obligation;

(b) subject to Subsection (8):

(i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and

(ii) complies with the agreement described in Subsection (6)(b)(i) for any initial compliance period required by the agreement;

(c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or

(d) is not currently delinquent on a child support obligation.

(7) The office shall rescind an order made by the office to suspend a driver license if the person:

(a) pays the full amount that the person is in arrears on the person's child

support obligation;

(b) subject to Subsection (8):

(i) enters into a payment agreement with the office for the payment of the person's current child support obligation and all arrears; and

(ii) complies with the agreement described in Subsection (7)(b)(i) for any initial compliance period required by the agreement;

(c) obtains a judicial order staying enforcement of the person's child support obligation or the amount in arrears; or

(d) is not currently delinquent on a child support obligation.

(8) For purposes of Subsections (6)(b) and (7)(b), the office shall diligently strive to enter into a fair and reasonable payment agreement that takes into account the person's employment and financial ability to make payments, provided that there is a reasonable basis to believe that the person will comply with the agreement.

(9) (a) If, after the office seeks to suspend a person's driver license under this section, it is determined that the person is not delinquent, the office shall refund to the person any noncustodial parent income withholding fee that was collected from the person during the erroneously alleged delinquency.

(b) Subsection (9)(a) does not apply if the person described in Subsection (9)(a) is otherwise in arrears on a child support obligation.

(10) (a) A person whose driver license is ordered suspended pursuant to this section may file a request with the office, on a form provided by the office, to have the office rescind the order of suspension if:

(i) the person claims that, since the time of the suspension, circumstances have changed such that the person is entitled to have the order of suspension rescinded under Subsection (7); and

(ii) the office has not rescinded the order of suspension.

(b) The office shall respond, in writing, to a person described in Subsection (10), within 10 days after the day on which the request is filed with the office, stating whether the person is entitled to have the order of suspension rescinded.

(c) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should be rescinded, the office shall immediately rescind the order.

(d) If the office determines, under Subsection (10)(b), that an order to suspend a person's license should not be rescinded:

(i) the office shall, as part of the response described in Subsection (10)(b), notify the person, in writing, of the reasons for that determination; and

(ii) the person described in this Subsection (10)(d) may, within 15 days after the day on which the office sends the response described in Subsection (10)(b), appeal the determination of the office to district court.

(e) The office may not require that a person file the request described in Subsection (10)(a) before the office orders that an order of suspension is rescinded, if the office has already determined that the order of suspension should be rescinded under Subsection (7).

(11) The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) implement the provisions of this part; and

(b) determine when the arrears described in Subsections (6) and (7) are considered paid.

Amended by Chapter 382, 2008 General Session

**62A-11-604. Notification of order to suspend or rescision of order.**

(1) When, pursuant to this part, the office orders the suspension of a person's driver license, or rescinds an order suspending a person's driver license, the office shall, within five business days after the day on which the order or rescision is made, notify:

- (a) the Driver License Division; and
- (b) the person to whom the order or rescision applies.

(2) (a) The notification described in Subsections (1)(a) and (b) shall include the name and identifying information of the person described in Subsection (1).

(b) The notification to a person described in Subsection (1)(b) shall include a statement indicating that the person must reinstate the person's driver license with the Driver License Division before driving a motor vehicle.

Enacted by Chapter 338, 2007 General Session

**62A-11-701. Title.**

This part is known as "Electronic Funds Transfer."

Enacted by Chapter 73, 2008 General Session

**62A-11-702. Definitions.**

(1) The definitions in Section 62A-11-401 apply to this section.

(2) As used in this section, "account" is as defined in Section 62A-11-103.

Enacted by Chapter 73, 2008 General Session

**62A-11-703. Alternative payment by obligor through electronic funds transfer.**

(1) The office may enter into a written alternative payment agreement with an obligor which provides for electronic payment of child support under Part 4, Income Withholding in IV-D Cases, or Part 5, Income Withholding in Non IV-D Cases. Electronic payment shall be accomplished through an automatic withdrawal from the obligor's account at a financial institution.

(2) The alternative payment agreement shall:

- (a) provide for electronic payment of child support in lieu of income withholding;
- (b) specify the date on which electronic payments will be withdrawn from an obligor's account; and
- (c) specify the amount which will be withdrawn.

(3) The office may terminate the agreement and initiate immediate income withholding if:

- (a) required to meet federal or state requirements or guidelines;
- (b) funds available in the account at the scheduled time of withdrawal are insufficient to satisfy the agreement; or
- (c) requested by the obligor.
- (4) If the payment amount requires adjusting, the office may initiate a new written agreement with the obligor. If, for any reason, the office and obligor fail to agree on the terms, the office may terminate the agreement and initiate income withholding.
- (5) If an agreement is terminated for insufficient funds, a new agreement may not be entered into between the office and obligor for a period of at least 12 months.
- (6) The office shall make rules specifying eligibility requirements for obligors to enter into alternative payment agreements.

Renumbered and Amended by Chapter 73, 2008 General Session

**62A-11-704. Mandatory distribution to obligee through electronic funds transfer.**

(1) Notwithstanding any provision of this chapter to the contrary, the office shall, except as provided in Subsection (3), distribute child support payments, under Subsection 62A-11-413(2) or Section 62A-11-505, by electronic funds transfer.

(2) Distribution of child support payments by electronic payment under this section shall be made to:

- (a) an account of the obligee; or
- (b) an account that may be accessed by the obligee through the use of an electronic access card.

(3) (a) Subject to Subsection (3)(b), the office may make rules, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to allow exceptions to the requirement to make distributions by electronic funds transfer under Subsection (1).

(b) The rules described in Subsection (3)(a) may only allow exceptions under circumstances where:

- (i) requiring distribution by electronic funds transfer would result in an undue hardship to the office or a person; or
- (ii) it is not likely that distribution will be made to the obligee on a recurring basis.

Enacted by Chapter 73, 2008 General Session